

AMENDED IN SENATE JUNE 6, 2012
AMENDED IN ASSEMBLY MARCH 21, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2171

Introduced by Assembly Member Fong

February 23, 2012

An act to add Section 76038 to the Education Code, relating to community college districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2171, as amended, Fong. Public postsecondary education: community colleges: expulsion hearing.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law authorizes the governing board of a district to expel a student for good cause when the presence of the student causes a continuing danger to the physical safety of the student or others. Existing law requires that the expulsion be accompanied by a hearing.

This bill would authorize the governing board of a district to either deny enrollment, permit enrollment, or permit conditional enrollment to any individual who has been expelled from a community college within the preceding 5 years, or who is, at the time of the application, undergoing expulsion procedures, for certain offenses, as provided, if

the board determines that the person continues to pose a risk to the safety of others. This bill would require the board or a delegate to hold a hearing, before taking action to deny enrollment or permit conditional enrollment, to determine whether the person continues to pose a risk. The bill would authorize a governing board of a district to delegate its authority under these provisions to the superintendent or president of the district, or to his or her designee.

The bill also would authorize the community college district to request information from another community college district in determining whether the applicant continues to pose a danger to the physical safety of others. The bill would require any community college district receiving the request to respond to the request within 5 working days. The bill would authorize a community college district to require these applicants to inform the district of his or her prior expulsion, and to consider failure to do so in determining whether to grant admission.

The bill would expressly apply specified immunities to an exercise of discretion by a community college district, and its officers and employees, under these provisions. *The bill would not apply these provisions to the admission of students for whom a community college district has discretion to admit pursuant to specified law.*

By requiring a community college district ~~to hold a hearing and~~ to respond to the request of another community college for information regarding an expelled student, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 76038 is added to the Education Code,
- 2 to read:
- 3 76038. (a) If the governing board of a community college
- 4 district receives an application for admission from an individual

1 who has been expelled from another district pursuant to this article
2 within the preceding five years, or who is undergoing expulsion
3 procedures in another district, for any of the offenses listed in
4 subdivision (b), before taking action to deny enrollment or permit
5 conditional enrollment as authorized by subdivision (e), the
6 governing board or delegate pursuant to subdivision (f) shall hold
7 a hearing, conducted in accordance with this section and the
8 applicable rules and regulations governing enrollment hearings
9 authorized by this section and adopted in accordance with Section
10 66300, to determine whether that individual poses a continuing
11 danger to the physical safety of the students and employees of the
12 district.

13 (b) For purposes of this section, “offense” means one of the
14 following:

15 (1) Committed or attempted to commit murder.

16 (2) Caused, attempted to cause serious, or threatened to cause
17 physical injury to another person, including assault or battery as
18 defined in Section 240 or 242 of the Penal Code, except in
19 self-defense.

20 (3) Committed or attempted to commit a sexual assault as
21 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
22 Code or committed sexual battery as defined in Section 243.4 of
23 the Penal Code.

24 (4) Committed or attempted to commit kidnapping, or seized,
25 confined, inveigled, enticed, decoyed, abducted, concealed,
26 kidnapped, or carried away another person by any means with the
27 intent to hold or detain that person for ransom or reward.

28 (5) Committed or attempted to commit robbery or extortion.

29 (6) Committed stalking as defined in Section 646.9 of the Penal
30 Code.

31 (7) Unlawfully possessed, sold, or otherwise furnished a firearm,
32 knife, explosive, or other dangerous object.

33 (c) A community college district may request information from
34 another community college district in determining whether the
35 applicant continues to pose a danger to the physical safety of others.
36 Any community college district receiving such a request shall
37 respond no later than five working days from the receipt of the
38 request.

39 (d) A community college district may require a student seeking
40 admission who has been previously expelled from a community

1 college in the state for any of the actions listed in subdivision (b)
2 to inform the district of his or her prior expulsion. Failure to do so
3 may be considered by the district in determining whether to grant
4 admission, and a written record of the fact may be maintained by
5 the district with the applicant's file.

6 (e) The governing board of a community college district, upon
7 making a determination pursuant to subdivision (a), shall take into
8 consideration evidence of subsequent offenses and rehabilitative
9 efforts since the offense and may take any of the following actions:

10 (1) Deny enrollment.

11 (2) Permit enrollment.

12 (3) Permit conditional enrollment.

13 (f) The governing board of a community college district may
14 delegate any authority under this section to the superintendent or
15 president of a community college district, or his or her designee,
16 or a threat assessment crisis response team pursuant to rules and
17 regulations adopted pursuant to Section 66300.

18 (g) Before the governing board of a community college district
19 takes action as authorized under this section, the governing board
20 shall establish a formal appeals process for students denied
21 enrollment to appeal the decision to the governing board. A student
22 who is denied enrollment under subdivision (e) may appeal the
23 decision to deny enrollment to the governing board of the
24 community college district.

25 (h) This section shall not be construed to impose any duty on a
26 community college district to review applicants for admission or
27 review previously enrolled students, whether returning or
28 continuing, or to conduct a hearing in response to the receipt of
29 any information regarding a potential, former, or existing student.

30 (i) In accordance with Sections 815.2 and 820.2 of the
31 Government Code, a community college district, a member of the
32 governing board of a community college district, an officer or
33 employee of a community college district, including a
34 superintendent of a community college district, a president of a
35 community college district, and the designee of a president or a
36 superintendent, shall not be liable for an injury resulting from an
37 exercise of discretion pursuant to this section, including, but not
38 limited to, an exercise of discretion not to conduct a hearing when
39 a hearing is not required.

1 (j) *This section shall not apply to the admission of students for*
2 *whom a community college district has discretion to admit pursuant*
3 *to Section 76000.*

4 SEC. 2. If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.

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